

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Capital One Bank (USA), N.A.,

Plaintiff,

v.

Case No. 2:13-cv-325

Dennis A. Givens,

Judge Michael H. Watson

Defendant.

ORDER

Plaintiff originally brought this action in the Belmont County Court, Eastern Division, seeking to recover \$2,296.07 plus interest owed by Defendant on a Platinum Visa account. After the state court granted judgment in favor of Plaintiff, Plaintiff sought to garnish federal benefits Social Security paid to Defendant. Defendant then removed the action to this Court on the purported basis of federal question jurisdiction because the benefits Plaintiff sought to garnish were protected federal benefits. Plaintiff moved to remand. ECF No. 8.

The Magistrate Judge issued a report and recommendation in which he recommended that the Court grant Plaintiff's motion to remand because, under the universally recognized well-pleaded complaint doctrine, Plaintiff's complaint does not contain any federal claim upon which to base federal question jurisdiction. Report and Recommendation 4, ECF No. 14. In response, Defendant filed a "motion for hearing" which the Court also liberally construes to be an objection to the Magistrate Judge's Report and Recommendation. ECF

No. 17.

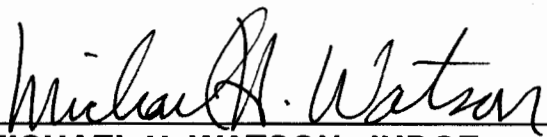
Defendant does not indicate why a hearing is required, nor does he describe what evidence he would present at such a hearing. His request for a hearing is therefore denied.

To the extent Defendant intended his motion to serve as an objection, that objection is overruled. Defendant does no more than reiterate his incorrect assertion that removal was proper because the benefits Plaintiff seeks to garnish are federal. The Court agrees with the Magistrate Judge's conclusion that no basis for federal subject matter jurisdiction appears on the face of Plaintiff's complaint, and remand is therefore required.

Upon *de novo* review, the Court **OVERRULES** Defendant's objection and **ADOPTS** the Magistrate Judge's Report and Recommendation in its entirety. Accordingly, the Court **GRANTS** Plaintiff's motion to remand, ECF No. 8, and **REMANDS** this case to the Belmont County Court, Eastern Division. The Court also **DENIES** Defendant's motion for hearing, ECF No. 17.

The Clerk shall remove ECF Nos. 8 and 17 from the Civil Justice Reform Act motions report.

IT IS SO ORDERED.



MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT